

EXCHANGES OF LANDS IN THE WALAPAI INDIAN RESERVATION, ARIZ.

FEBRUARY 11, 1925.—Committed to the Committee of the Whole House on the
state of the Union and ordered to be printed

Mr. HAYDEN, from the Committee on Indian Affairs, submitted the
following

REPORT

[To accompany S. 877]

The Committee on Indian Affairs, to whom was referred the bill (S. 877) to provide for exchanges of Government and privately owned lands in the Walapai Indian Reservation, Ariz., having considered the same, report thereon with a recommendation that it do pass without amendment.

The bill was drafted by the Interior Department and its enactment is recommended in the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, December 6, 1923.

HON. SELDEN P. SPENCER,
*Chairman Committee on Indian Affairs,
United States Senate.*

MY DEAR SENATOR SPENCER: I have the honor to transmit herewith the draft of a bill to provide for exchanges of Government and privately owned lands in the Walapai Indian Reservation, Ariz., so that the lands retained for Indian purposes may be consolidated and held in a solid area so far as may be possible.

The Walapai Reservation was established by Executive order of January 4, 1883, and the total area thereof is approximately 731,000 acres. The title to the odd-numbered sections therein passed to the Atlantic & Pacific Railroad Co. under the provisions of the act of July 27, 1866 (14 Stat. L. p. 292). The company's grant attached on March 12, 1872, the date of the definite location of the road through the locality, this being 10 years prior to the establishment of the Indian reservation. There is therefore divided ownership within the reservation boundaries, the title to the even-numbered sections being in the Government for the Indians and the title to the odd-numbered sections being in the Santa Fe Pacific Railroad Co. as successor in interest to the Atlantic & Pacific Railroad Co.

The act of April 21, 1904 (33 Stat. L. p. 211), provides that any private land over which an Indian reservation has been extended by Executive order may be exchanged by the owners for lands outside of the reservation, but in view of the act of May 25, 1918 (40 Stat. L. p. 570), which prohibits the creation of an Indian reservation or an addition to one already created within the States

of New Mexico and Arizona except by act of Congress, this department has held that an exchange under the act of 1904 might be considered as a violation of the spirit and intent of the act mentioned.

Under the provisions of the act of June 25, 1910 (36 Stat. L. p. 834), the Santa Fe Railroad Co. applied to have the odd-numbered sections identified by survey. The company furnished its share of the necessary expense and the survey has been completed and approved. There is therefore no question as to the title of the railroad company to the odd sections. The identification of the railroad sections and complete passing of title has brought about a condition which causes considerable trouble and embarrassment in administering the affairs of the Walapai Indians. Before the odd-numbered sections had been actually identified by a survey and marked on the ground, the department held that it had authority to lease as grazing districts the unsurveyed lands within the reservation and apply the rental for the benefit of the Indians; and the Indians otherwise have had practically the free and unrestricted use of their reservation lands.

This condition has been changed, and the railroad company, through their attorneys, are alleging that the Indians are committing waste upon the company's lands by felling and removing the timber, and by grazing lands for which the company has received no benefit and given no authority. This department has been asked to make an investigation to ascertain the extent of these unlawful acts, and it has been stated to us that the company would like a settlement of these difficulties without resorting to suit. Under the proposed bill a consolidation could no doubt be effected whereby the railroad company would relinquish a part of their odd-numbered sections and take in lieu thereof the even-numbered sections within its retained area. There would still be a divided ownership between the railroad company and the Government within the boundaries of the reservation, but the land would be held by each in practically solid areas.

The legislation requested is similar to that authorized by the act of March 3, 1921 (41 Stat. L. p. 1239), and it is considered that a settlement of the present and future difficulties by such a method would be a good business arrangement. To allow matters to remain in their present condition will be the cause of constant friction between the railroad company or its grantees on the one side, and the Indians and the Government. While a consolidation would reduce by about one-half the area the Indians have heretofore used, yet under the circumstances it seems that this is the only action that should be taken to prevent future trouble. This department would therefore be glad to see the inclosed bill or legislation similar thereto enacted into law.

Very truly yours,

HUBERT WORK, *Secretary.*

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